

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES of AMERICA,

Action No. 1:04-cr-10286 PBS

v.

MICHAEL W. ALCOTT,
Defendant.

MOTION TO EXCLUDE CERTAIN "VICTIM" EVIDENCE

N O W C O M E S defendant, Michael W. Alcott, and moves, respectfully, for an order excluding all evidence concerning Clover Capital, LLP, and Citizens Capital, Inc., on the grounds that said businesses are not victims of the offense conduct and may not be awarded restitution within the meaning of 18 USC §3663A(a)(2). The government's argument does not satisfy the "but for" test of causation clearly established and enforced by this Circuit. See, *US v. Cutter*, 313 F.3d 1 (1 Cir. 2002) (construing §3663A(a)(2) and "but for" test, reversing order of restitution) and *US v. Paradis*, 219 F.3d 22 (1 Cir. 2000)(reversing order of restitution under §3663A(a)(2) because "victim must be one ... 'harmed as a result of the commission of [the] offense'.")

Dated this 20th day of March, 2006 at Boston, Massachusetts.

/s./ Kevin L. Barron

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CERTIFICATE OF SERVICE

Counsel certifies that he has served AUSA Jack Pirozzolo, Esq., electronically with a true copy of this motion by the CM/ECF of this District today on March 20, 2006. No party requires service by mail.

/s./ Kevin L. Barron

Kevin Lawrence Barron BBO550712